

**UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DOCKETING STATEMENT--CIVIL/AGENCY CASES**

Directions: Counsel must make a **docketing statement (civil/agency) filed** entry in CM/ECF within 14 days of docketing of the appeal, or within the due date set by the clerk's docketing notice, whichever is later. File with the entry the (1) docketing statement form with any extended answers and (2) any transcript order form. Parties proceeding pro se are not required to file a docketing statement. Opposing counsel who finds a docketing statement inaccurate or incomplete may file any objections within 10 days of service of the docketing statement using the ECF event-**docketing statement objection/correction filed**.

Appeal No. & Caption	23-2301, Austin v. Experian Information Solutions, Inc.
Originating No. & Caption	3:22-cv-0707, Austin v. Experian Information Solutions, Inc.
Originating Court/Agency	U.S. District Court for the Eastern District of Virginia -Richmond

Jurisdiction (answer any that apply)		
Statute establishing jurisdiction in Court of Appeals	9 U.S.C. § 16(a)(1).	
Time allowed for filing in Court of Appeals	30 days	
Date of entry of order or judgment appealed	12/14/2023	
Date notice of appeal or petition for review filed	12/14/2023	
If cross appeal, date first appeal filed	N/A	
Date of filing any post-judgment motion	N/A	
Date order entered disposing of any post-judgment motion	N/A	
Date of filing any motion to extend appeal period	N/A	
Time for filing appeal extended to	N/A	
Is appeal from final judgment or order?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
If appeal is not from final judgment, why is order appealable? It is an order appealing the denial of motion to compel arbitration. See 9 U.S.C. § 16(a)(1).		

Settlement (The docketing statement is used by the circuit mediator in pre-briefing review and mediation conducted under Local Rule 33. Counsel may make a confidential request for mediation by calling the Office of the Circuit Mediator at 843-731-9099.)		
Is settlement being discussed?	<input type="radio"/> Yes	<input checked="" type="radio"/> No

Transcript (transcript order must be attached if transcript is needed and not yet on file)		
Is transcript needed for this appeal?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Has transcript been filed in district court?	<input checked="" type="radio"/> Yes	<input type="radio"/> No
Is transcript order attached?	<input type="radio"/> Yes	<input checked="" type="radio"/> No

Case Handling Requirements (answer any that apply)		
Case number of any prior appeal in same case	N/A	
Case number of any pending appeal in same case	N/A	
Identification of any case pending in this Court or Supreme Court raising similar issue	N/A	
	If abeyance or consolidation is warranted, counsel must file an appropriate motion.	
Is expedited disposition necessary?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
	If yes, motion to expedite must be filed.	
Is oral argument necessary?	<input checked="" type="radio"/> Yes	<input type="radio"/> No
Does case involve question of first impression?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Does appeal challenge constitutionality of federal or state statute in case to which federal or state government is not a party	<input type="radio"/> Yes	<input checked="" type="radio"/> No
	If yes, notice re: challenge to constitutionality of law must be filed.	

Nature of Case (Nature of case and disposition below. Attach additional page if necessary.)
<p>Experian Information Solutions, Inc. appeals the denial of its motion to stay proceedings in the district court and compel arbitration of plaintiff Darrell J. Austin, Jr.'s claims under the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681 et seq.</p> <p>Austin alleges that Experian violated the FCRA by allegedly reporting trade lines on his credit file regarding an unsecured debt that he claims was discharged in his bankruptcy. Experian moved to compel arbitration of these claims because Austin was a member of CreditWorks, a credit monitoring membership offered by ConsumerInfo.com, an Experian affiliate. Experian maintains that when Austin signed up for CreditWorks, he agreed to Terms of Use that included an arbitration agreement. To support its motion, Experian attached an affidavit from David Williams, the VP for Business Governance of ConsumerInfo.com. Austin opposed the motion and moved to strike the Williams declaration as not based on personal knowledge.</p> <p>On Austin's motion and after several hearings, the district court struck the Williams affidavit and denied the motion to compel arbitration. Experian appeals these rulings.</p>

Issues (Non-binding statement of issues on appeal. Attach additional page if necessary)

1.) Did Austin consent to arbitrate his claims against Experian when he joined CreditWorks?

2.) Did the district court improperly strike the Williams affidavit for violation of the personal knowledge requirement?

Adverse Parties (List adverse parties to this appeal and their attorneys; provide party's address if the party is not represented by counsel. Attach additional page if necessary.)

Adverse Party: Darrell J. Austin, Jr.

Attorney: Leonard A. Bennett

Address: Consumer Litigation Associates, P.C.
763 J. Clyde Morris Blvd., Suite 1-A
Newport News, VA 23601

E-mail: lenbennett@clalegal.com

Phone: (757) 930-3660

Adverse Party:

Attorney:

Address:

E-mail:

Phone:

Adverse Parties (continued)

Adverse Party:

Attorney:

Address:

E-mail:

Phone:

Adverse Party:

Attorney:

Address:

E-mail:

Phone:

Appellant (Attach additional page if necessary.)	
Name: Experian Information Solutions, Inc. Attorney: Jacob (Yaakov) M. Roth Address: Jones Day 51 Louisiana Ave. N.W. Washington, D.C. 20001 E-mail: yroth@jonesday.com Phone: (202) 879-3939	Name: Attorney: Address: E-mail: Phone:
Appellant (continued)	
Name: Attorney: Address: E-mail: Phone:	Name: Attorney: Address: E-mail: Phone:
Signature: <u>Jacob (Yaakov) M. Roth</u> Date: <u>1/3/2024</u>	
Counsel for: <u>Experian Information Solutions, Inc.</u>	
Certificate of Service (required for parties served outside CM/ECF): I certify that this document was served on _____ by <input type="checkbox"/> personal delivery; <input type="checkbox"/> mail; <input type="checkbox"/> third-party commercial carrier; or <input type="checkbox"/> email (with written consent) on the following persons at the addresses or email addresses shown:	
Signature:	Date: